

1 H.463

2 Introduced by Representatives Colburn of Burlington and Gonzalez of

3 Winooski

4 Referred to Committee on

5 Date:

6 Subject: Climate change; public service; taxation; greenhouse gases; carbon

7 charge; electric bill rebates

8 Statement of purpose of bill as introduced: This bill proposes to adopt a  
9 charge on the carbon content of fossil fuels to address climate change and  
10 facilitate meeting greenhouse gas reduction goals and to return all of the  
11 revenues from that charge to customers on their electric bills.

12 An act relating to a carbon charge that is refunded on electric bills

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. DESIGNATION

15 This act shall be referred to as the Economy–Strengthening Strategic  
16 Energy Exchange (ESSEX) Act.

17 Sec. 2. 30 V.S.A. chapter 15 is added to read:

18 CHAPTER 15. ECONOMY–STRENGTHENING STRATEGIC

19 ENERGY EXCHANGE

20 Subchapter 1. General

1     § 651. PURPOSE

2         The purposes of this chapter are to:

3             (1) take action in Vermont to address climate change, strengthen  
4     Vermont's economy, and facilitate meeting the State's goals for greenhouse  
5     gas reduction under 10 V.S.A. § 580 and for renewable energy under  
6     section 8001 of this title;

7             (2) adopt a charge on the carbon content of fossil fuels that will reduce  
8     the burning of those fuels and facilitate a transition to cleaner, renewable  
9     energy supplies; and

10            (3) require the return to Vermonters of the revenues from the charge on  
11     their electric bills.

12     § 652. DEFINITIONS

13         As used in this chapter:

14            (1) "Carbon charge" means the charge adopted under subchapter 2 of  
15     this chapter.

16            (2) "CO<sub>2</sub>" means carbon dioxide.

17            (3) "Collection date" means the date by which a distributor must remit  
18     the carbon charge to the Commissioner of Taxes under section 662 of this title.

19            (4) "Commission" means the Public Utility Commission under section 3  
20     of this title.

21            (5) "Commissioner" means the Commissioner of Taxes.

1           (6) “Customer” has the same meaning as in section 8002 of this title.

2           (7) “Distributor” means a person who imports or causes to be imported  
3 fuel for use, distribution, or sale within the State or a person who produces,  
4 refines, manufactures, or compounds fuel within the State for use, distribution,  
5 or sale.

6           (8) “Fiscal year” or “FY” means the period of 12 months ending on  
7 June 30.

8           (9) “Fuel” means each form and grade of butane, coal, clear diesel fuel,  
9 gasoline, fuel oil, kerosene, natural gas, and propane.

10           (10) “Fund” means the Carbon Charge Rebate Fund established by  
11 section 661 of this title.

12           (11) “Gasoline” means each fuel used or made for use in motor vehicles.

13           (12) “kg” means kilogram.

14           (13) “kWh” means kilowatt hour.

15           (14) “Rebate month” means the full billing cycle of a retail electricity  
16 provider commencing during the calendar month that immediately follows the  
17 collection date. For example, if the collection date is January 15, the rebate  
18 month for that collection date is February.

19           (15) “Retail electricity provider” and “provider” have the same meaning  
20 as in section 8002 of this title.

21           (16) “Tonne” means metric ton or 1,000 kg.



1           (3) the sale of fuel to the U.S. government or its subdivisions, or under  
2           any other circumstances in which the State lacks power to apply the charge; or

3           (4) the sale of fuel by a distributor if the same fuel has already been  
4           subjected to the carbon charge, provided the sales invoice clearly indicates the  
5           amount of fuel that has already been subjected to the charge and the distributor  
6           possesses and retains documentation demonstrating the prior payment,  
7           including the person who paid and the date and amount of payment.

8           (c) Calculation. For each fuel, the Commissioner shall convert the amount  
9           per tonne stated in subsection (a) of this section to a rate per unit of fuel using  
10           the applicable CO<sub>2</sub> emissions coefficient published by the U.S. Energy  
11           Information Administration on February 2, 2016 or such carbon emission  
12           coefficients as may be recommended by the Secretary of Natural Resources  
13           based on the best available science. In addition to CO<sub>2</sub>, the Secretary's  
14           recommended coefficients may include emissions of other greenhouse gases,  
15           such as methane and nitrous oxide.

16           (d) Publication. On or before January 15 of each year, the Commissioner  
17           shall publish the carbon charge rate per unit that will be in effect during the  
18           following fiscal year for each fuel.

19           § 657. ADMINISTRATION; ENFORCEMENT

20           (a) Collection; remittance.

1           (1) The distributor shall collect the carbon charge on completion of each  
2           sale or delivery of fuel to which the charge applies. The distributor shall  
3           identify the charge collected as a separate invoice entry on each sale of fuel.

4           (2) On or before the 15th day of each month, each distributor liable for  
5           the carbon charge shall return to the Commissioner, under oath of a person  
6           with legal authority to bind the distributor, a statement containing its name and  
7           place of business, the quantity and type of fuel subject to the carbon charge  
8           sold in the preceding calendar month, and any other information required by  
9           the Commissioner, along with the charge due for the fuel sold in the preceding  
10           month.

11           (b) Deposit. The Commissioner shall deposit all revenues from the carbon  
12           charge into the Fund.

13           (c) Records; inspection. Every distributor shall maintain, for not fewer  
14           than three years, accurate records documenting all transactions to which the  
15           carbon charge applies and all transactions for which exemption is claimed  
16           under section 656 of this title. The Commissioner may inspect these records at  
17           all reasonable times during normal business hours.

18           (d) Enforcement; confidentiality of returns. The enforcement provisions of  
19           32 V.S.A. chapter 103 shall apply to the obligations of a distributor under this  
20           chapter and, for this purpose, those obligations shall be considered liabilities

1 under Title 32. The confidentiality requirements of 32 V.S.A. § 3102 shall  
2 apply to records submitted to the Commissioner under this subchapter.

3 Subchapter 3. Return of Charge to Vermonters

4 § 661. CARBON CHARGE REBATE FUND

5 (a) The Carbon Charge Rebate Fund is established in the State Treasury  
6 under 32 V.S.A. chapter 7, subchapter 5 to receive all revenues from the  
7 carbon charge and such other monies as may be appropriated or deposited into  
8 the Fund.

9 (b) Balances in the Fund shall be used solely for the purposes set forth in  
10 this subchapter and shall not be used for the general obligations of government.  
11 Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, all balances  
12 in the Fund at the end of any fiscal year shall be carried forward and remain  
13 part of the Fund, and interest earned by the Fund shall be deposited in the  
14 Fund.

15 § 662. REBATE; ALLOCATION

16 (a) Rebate. In accordance with this subchapter, the total revenues from the  
17 carbon charge remitted to the Commissioner by each collection date shall be  
18 rebated by each Vermont retail electricity provider during the rebate month for  
19 that collection date:

20 (1) To the provider's customers on the bill.

1           (2) To households that are not customers and that occupy, as their  
2           principal place of residence, dwelling units within the provider's territory, such  
3           as renters or occupants of dwelling units that are not connected to the  
4           distribution system of a provider. The Commission shall adopt the rules under  
5           which rebates shall be made to such households and shall design those rules so  
6           that such a household receives, as closely as possible, the same rebate that it  
7           would receive if it were a customer.

8           (b) Allocation of revenues; calculation of rebates. The Commission shall  
9           adopt by rule a formulaic method that governs the allocation of the carbon  
10           charge revenues and the calculation of rebates. The method shall comply with  
11           each of the following:

12           (1) Allocation to classes. The mechanism shall allocate the total  
13           revenues received by the collection date among three customer classes, based  
14           on the estimated percentage contribution of each class to those total revenues.  
15           The classes shall be commercial, industrial, and residential.

16           (2) Commercial and industrial classes. For each of the commercial and  
17           industrial classes, using 100 percent of the amount allocated to each class:

18           (A) The method shall calculate a rebate per kWh that each provider  
19           shall apply to its retail bill for each commercial and industrial customer during  
20           the rebate month. The amount of the rebate per kWh shall be the same for  
21           each provider and for each customer within a class.

1           (B) The method shall apportion, among the providers, the total  
2           amount allocated to the class based on each provider's percentage share of the  
3           statewide kWh sales to customers in the class.

4           (3) Residential class.

5           (A) General residential rebate. Of the amount allocated to the  
6           residential class, 33.33 percent shall be used for a general residential rebate.  
7           The method shall determine a rebate per kWh that each provider shall apply to  
8           its retail bill for each residential customer during the rebate month. The  
9           amount of the rebate per kWh shall be the same for each provider and for each  
10          residential customer. The method shall apportion, among the providers, the  
11          total amount allocated to this rebate based on each provider's percentage share  
12          of the statewide kWh sales to the customers in the class.

13          (B) Additional residential rebate; rural customers. Of the amount  
14          allocated to the residential class, 33.33 percent shall be used for a rural  
15          residential rebate that shall be in addition to the other rebates authorized in this  
16          subdivision (3).

17                 (i) The method shall calculate the rebate as a fixed amount per  
18                 month on the bill of each rural customer. This amount shall not vary by  
19                 provider.

1           (ii) To be eligible for the rebate, the customer's primary residence  
2           shall be located within a rural area of the State as determined by the  
3           Commission and the customer's account shall be for that residence.

4           (iii) The Commission shall determine which areas of the State  
5           qualify as rural for the purpose of this subdivision (3)(B) and in doing so shall  
6           consider the information set forth in "Mapping Total Energy Burden in  
7           Vermont" prepared on behalf of Efficiency Vermont (July 2016).

8           (iv) The method shall apportion the revenue amount to be used for  
9           this rural residential rebate among the providers based on each provider's  
10           percentage share of residential customers located in the areas that the  
11           Commission determines are rural.

12           (C) Additional income-based residential rebate. Of the amount  
13           allocated to the residential class, 33.33 percent shall be used for a rebate to  
14           customers of low and middle income that shall be in addition to the other  
15           rebates authorized in this subdivision (3).

16           (i) The rebate shall be a fixed amount per month on the bill of  
17           each eligible customer. This amount shall not vary by provider.

18           (ii) To be eligible for the rebate, the customer's primary residence  
19           shall be within the State, the customer's account shall be for that residence, and  
20           the customer's annual household income shall be below 300 percent of the  
21           federal poverty level.

1           (iii) In consultation with the Department for Children and Families  
2           (DCF), the Commission shall include in the method income tiers for the rebate  
3           so that customers with lower household incomes receive a rebate that is larger  
4           than the rebate provided to customers with higher household incomes.

5           (iv) With the monthly bill to a customer who has demonstrated  
6           eligibility for this income-based rebate, the provider shall include a check to  
7           the customer if, on the bill, the total amount of the residential rebates pursuant  
8           to this subdivision (3) exceeds the total amount of other charges on the bill.

9           The amount of the check shall be the difference between these two amounts.

10          Each check issued pursuant to this subdivision shall state that it is a carbon  
11          charge rebate check.

12          (4) Noncustomer households. The method shall include and account for  
13          rebates to households that are not customers in accordance with subdivision  
14          (a)(2) of this section.

15          (c) Eligibility demonstration; verification. A person seeking one or both of  
16          the rural residential and income-based rebates established under this section  
17          shall demonstrate eligibility. The Commission shall create a mechanism to be  
18          used for the self-certification of eligibility for these rebates.

19          (1) The Commission, in consultation with DCF, shall determine:

20                 (A) When, how, and to whom persons demonstrate eligibility and the  
21                 manner in which eligibility is verified. In making this determination, the

1 Commission shall consider employing measures similar to those used under  
2 affordability programs approved pursuant to subsection 218(e) of this title.

3 (B) The manner in which customers and other potentially eligible  
4 persons are notified of the availability and eligibility requirements of these  
5 rebates and how to demonstrate eligibility.

6 (C) The requirements and procedures concerning changes in income  
7 or other circumstances that affect a person's continued eligibility for one or  
8 both of these rebates.

9 (2) The Commission shall determine the confidentiality requirements  
10 applicable to eligibility information submitted under this section. Violation of  
11 these requirements shall constitute a violation of this chapter.

12 (d) Periodic adjustment. The formulaic method established under this  
13 section may include a periodic adjustment to each rebate to account for prior  
14 over- or under-collection of revenues in comparison to rebates issued.

15 (e) Information from Department of Taxes. The Commissioner of Taxes  
16 shall provide the Commission with such information as it directs concerning  
17 past and projected carbon charge revenues and estimated contributions of  
18 customer classes to those revenues.

19 (f) Information from providers. Each retail electricity provider shall  
20 furnish the Commission with the information the Commission considers  
21 necessary in implementing this subchapter.

1     § 663. ADMINISTRATION; ENFORCEMENT

2           (a) Line item on bill. A Vermont retail electricity provider shall show each  
3     rebate received by a customer pursuant to section 662 of this title as a separate  
4     line item on the customer's bill.

5           (b) Monies from the Fund to providers for rebates. To pay for the rebates  
6     under this subchapter, the Treasurer shall disburse monies from the Fund to a  
7     Vermont retail electricity provider at the direction of the Commission. Each  
8     provider shall hold the monies in trust for its customers and shall use the  
9     monies solely for rebates to its customers under this chapter. These monies  
10    shall not be considered revenue in establishing retail rates under this title.

11          (c) Rate recovery; other provider expenses. A Vermont retail electricity  
12    provider shall have the opportunity to recover in retail rates its necessary and  
13    reasonable expenses, other than rebates, in implementing this chapter.

14          (d) Accounts. Each Vermont retail electricity provider shall keep accurate  
15    accounts of all its receipts and disbursements of monies from the Fund and all  
16    its other receipts and expenditures in implementing this chapter.

17          (e) Additional provider duties. In addition to the duties specified in this  
18    chapter, the Commission may specify such other duties of retail electricity  
19    providers that it considers necessary in implementing this chapter.

1       (f) Energy efficiency measures. Rebates issued under this chapter shall not  
2       be used in determining the cost-effectiveness of energy efficiency programs  
3       and measures delivered under this title.

4       (g) Net metering customers.

5           (1) Rebates issued under this chapter shall not be used in determining  
6       the amount per kWh of bill credits for net metering systems under chapter 89  
7       of this title.

8           (2) With the monthly bill to a net metering customer, the provider shall  
9       include a check to the customer if, on the bill, the total amount of the rebates  
10       pursuant to this subchapter exceeds the total amount of other charges on the  
11       bill net of any bill credits from the net metering system. The amount of the  
12       check shall be the difference between these two amounts. The purpose of  
13       requiring such a check is to ensure that the net metering customer in fact  
14       receives the rebate of the carbon charge under this chapter and is not to require  
15       payment for power generated by a net metering system. Each check issued  
16       pursuant to this subdivision shall state that it is a carbon charge rebate check.

17       (h) Enforcement. The provisions of chapters 1 and 5 of this title enabling  
18       enforcement, records inspection by the Commission and the Department of  
19       Public Service, and injunctive and other relief for violations of law shall apply  
20       to the obligations of Vermont retail electricity providers under this chapter and  
21       rules and orders of the Commission issued thereunder. For the purpose of

1 sections 30 and 218 of this title, a violation of such an obligation shall be  
2 treated as a violation of chapter 5 of this title.

3 § 664. AUDITS

4 (a) The Auditor of Accounts of the State may conduct audits of the  
5 activities under this chapter to ensure that all of the monies raised by the  
6 carbon charge are returned to customers. The Auditor shall conduct two such  
7 audits as follows:

8 (1) On or before January 15, 2022, for FY 2021.

9 (2) On or before January 15, 2023, for FY 2022.

10 (b) The Auditor and his or her authorized representatives may at any time  
11 examine the accounts and books of a Vermont retail electricity provider  
12 relating to this chapter, including its receipts, disbursements, contracts, funds,  
13 investments, and any other relevant matters.

14 Sec. 3. IMPLEMENTATION

15 (a) In this section, terms that are defined in Sec. 2, 30 V.S.A. § 652, have  
16 the same meaning as in Sec. 2.

17 (b) On or before March 15, 2020:

18 (1) The Commissioner of Taxes shall publish the carbon charge rate per  
19 unit that will be in effect during fiscal year 2021 for each fuel and make  
20 available the form distributors will use to remit carbon charge collections.

1           (2) The Commission shall take all actions required under Sec. 2 to  
2           implement the carbon charge during fiscal year 2021, including finally  
3           adopting the formulaic method required by 30 V.S.A. § 662(b) and creating the  
4           forms and making the determinations required by 30 V.S.A. § 662(c).

5           (c) Each provider shall furnish rebates under this act with bills rendered on  
6           and after September 1, 2020.

7           Sec. 4. EFFECTIVE DATE

8           This act shall take effect on July 1, 2019.